

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

JOSEPH McKOY,

Plaintiff,

vs.

COMMISSIONER OF THE SOCIAL SECURITY
ADMINISTRATION,

Defendant.

) C/A No. 4:12-cv-1663-CMC-TER
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) REPORT AND RECOMMENDATION
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This action has been brought pursuant to Section 205(g) of the Social Security Act, as amended, 42 U.S.C. §405(g), to obtain judicial review of a “final decision” of the Commissioner of Social Security.¹ After the plaintiff filed her complaint on June 15, 2012, the defendant filed an answer and transcript on October 17, 2012. (Docs. #6 and #7).

The local rules of the District provide that plaintiff’s brief be filed within thirty (30) days of the defendant’s answer. Local Rule 83.VII.04, D.S.C. Accordingly, the plaintiff’s brief was due by November 19, 2012. Plaintiff filed a motion for extension to file his brief on November 16, 2012. (Doc. #9). This motion was granted and plaintiff was given until December 19, 2012, to file his brief.

As of this date, plaintiff has not filed his brief and has presented no argument why the decision by the Commissioner is not supported by substantial evidence. Therefore, it appears that the plaintiff does not wish to continue to prosecute this action.

¹ This case was referred to the undersigned for a report and recommendation pursuant to Local Rule 73.02(B)(2)(a), (D.S.C.).

Accordingly, it is recommended that this action be dismissed pursuant to Fed. R. Civ. Proc. 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and for failure to comply with other Rules and with a court Order.²

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge

January 9, 2013
Florence, South Carolina

² A complaint may be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute and/or failure to comply with orders of the court. Ballard v. Carlson, 882 F.2d 93 (4th Cir. 1989), cert. denied, 493 U.S. 1084 (1990), and Chandler Leasing Corp. v. Lopez, 669 F.2d 919 (4th Cir. 1982).